

2001 DRAFTING REQUEST

Bill

Received: 01/04/2001

Received By: nelsorp1

Wanted: As time permits

Identical to LRB:

For: Gary George (608) 266-2500

By/Representing: Dan Rossmiller

This file may be shown to any legislator: NO

Drafter: nelsorp1

May Contact:

Alt. Drafters:

Subject: Courts - immunity liability

Extra Copies: MGD

Pre Topic:

No specific pre topic given

Topic:

Repeal noneconomic damage recover cap in medical malpractice cases

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	nelsorp1 01/11/2001	jdye 01/12/2001	martykr 01/15/2001	_____	lrb docadmin 01/15/2001	lrb docadmin 01/29/2001	
				_____		lrb docadmin	
				_____		01/29/2001	

FE Sent For: no

<END>

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/?	nelsorp1	/1 1/2 jld	Km 1/5	KJ Km 1/5			

FE Sent For:

<END>

State of Wisconsin



GARY R. GEORGE
SENATOR

MEMORANDUM

CONFIDENTIAL

TO: Robert Nelson, Senior Attorney
Legislative Reference Bureau Drafting Section

FROM: Dan Rossmiller *DR*

DATE: January 4, 2001

RE: Drafting Request

Senator George would like to have a bill drafted for introduction in the 2001 Legislative Session to repeal the current \$350,000 cap on the recovery of non-economic damages in medical malpractice cases. (See Wisconsin Stat. §655.017).

Thank you for your assistance.

Please feel free to contact me (6-2500) if you have any questions.

P.S.: Bob, We have asked Ron Sklonsky from Leg. Council to help us with this. (I know you folks are busy with budget drafting.) We would like to hold a hearing on this in February. Please feel free to contact Ron. (6-1946). 1/10 will send Ron's proposal to me.

State of Wisconsin



GARY R. GEORGE
SENATOR

MEMORANDUM

CONFIDENTIAL

TO: Robert Nelson, Senior Attorney
Legislative Reference Bureau Drafting Section

FROM: Dan Rossmiller *DR*

DATE: January 10, 2001

RE: Drafting Request

Background:

On January 4, 2001, I sent you a memo indicating that Senator George would like to have a bill drafted for introduction in the 2001 Legislative Session to repeal the current \$350,000 cap on the recovery of non-economic damages in medical malpractice cases. (See Wisconsin Stat. §655.017).

I know that you are busy with budget drafting so we asked Ron Sklansky of the Legislative Council to help us. Attached is a WLC draft he prepared that he thinks addresses our request. I hope this is helpful to you.

Thank you for your assistance.

Please feel free to contact me (6-2500) if you have any questions.

Attachment

1 **AN ACT** to amend 655.017 and 893.55 (4) (b) and (d) of the statutes; relating to:
2 medical malpractice noneconomic damage awards.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 **SECTION 1.** 655.017 of the statutes is amended to read:

4 **655.017 Limitation on noneconomic damages.** The amount of noneconomic
5 damages recoverable by a claimant or plaintiff under this chapter for acts or omissions of a
6 health care provider if the act or omission occurs on or after May 25, 1995, and for acts or
7 omissions of an employee of a health care provider, acting within the scope of his or her
8 employment and providing health care services, for acts or omissions occurring on or after
9 May 25, 1995 and before the effective date of this section [revisor inserts date], is subject
10 to the limits under s. 893.55 (4) (d) and (f).

11 **SECTION 2.** 893.55 (4) (b) and (d) of the statutes are amended to read:

12 **893.55 (4) (b)** The total noneconomic damages recoverable for bodily injury or death,
13 including any action or proceeding based on contribution or indemnification, may not exceed
14 the limit under par. (d) for each occurrence on or after May 25, 1995 and before the effective
15 date of this section [revisor inserts date], from all health care providers and all employees
16 of health care providers acting within the scope of their employment and providing health care
17 services who are found negligent and from the patients compensation fund.

18 **(d)** The limit on total noneconomic damages for each occurrence under par. (b) on or
19 after May 25, 1995 and before the effective date of this section [revisor inserts date], shall
20 be \$350,000 and shall be adjusted by the director of state courts to reflect changes in the

1 consumer price index for all urban consumers, U.S. city average, as determined by the U.S.
2 department of labor, at least annually thereafter, with the adjusted limit to apply to awards
3 subsequent to such adjustments.

4 (END)



waated 4/28 pm
State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-1800/71

RPN.....
jld

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Gen

- 1 AN ACT ...; relating to: removing the maximum amount recoverable for
2 noneconomic[✓] damages in future medical malpractice cases.

Analysis by the Legislative Reference Bureau

Under current law, if an individual suffers injury as the result of an act or omission of a private health care provider, such as a physician at a private hospital, the individual may bring an action to recover damages for that medical malpractice. Current law allows the individual injured to recover all of his or her economic damages, such as the costs of additional medical care or the loss of earnings, resulting from the medical malpractice. However, current law limits the amount the individual may recover for his or her noneconomic damages, such as loss of society and companionship or for the individual's pain and suffering, resulting from the medical malpractice. The limit on noneconomic damages is \$350,000, adjusted for inflation.

This bill removes the limit on the recovery of noneconomic damages resulting from the private medical malpractice for all incidents that occur after the enactment of this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 3 SECTION 1. 655.017 of the statutes is amended to read:

1 **655.017 Limitation on noneconomic damages.** The amount of
2 noneconomic damages recoverable by a claimant or plaintiff under this chapter for
3 acts or omissions of a health care provider if the act or omission occurs on or after May
4 25, 1995² and before the effective date of this section....[revisor inserts date], and for
5 acts or omissions of an employee of a health care provider, acting within the scope
6 of his or her employment and providing health care services, for acts or omissions
7 occurring on or after May 25, 1995³ and before the effective date of this
8 section....[revisor inserts date], is subject to the limits under s. 893.55 (4) (d) and (f).
 Δ Δ

History: 1985 a. 340; 1995 a. 10.

9 **SECTION 2.** 893.55 (4) (b) of the statutes is amended to read:

10 893.55 (4) (b) The total noneconomic damages recoverable for bodily injury or
11 death, including any action or proceeding based on contribution or indemnification,
12 may not exceed the limit under par. (d) for each occurrence on or after May 25, 1995
13 and before the effective date of this ~~section~~ ^{paragraph}....[revisor inserts date], from all health
14 care providers and all employees of health care providers acting within the scope of
15 their employment and providing health care services who are found negligent and
16 from the patients compensation fund.

History: 1979 c. 323; 1985 a. 340; 1995 a. 10.

17 **SECTION 3.** 893.55 (4) (d) of the statutes is amended to read:

18 893.55 (4) (d) The limit on total noneconomic damages for each occurrence
19 under par. (b) on or after May 25, 1995⁴ and before the effective date of this
20 ~~section~~ ^{paragraph}....[revisor inserts date], shall be \$350,000 and shall be adjusted by the
21 director of state courts to reflect changes in the consumer price index for all urban
22 consumers, U.S. city average, as determined by the U.S. department of labor, at least

1 annually thereafter, with the adjusted limit to apply to awards subsequent to such
2 adjustments.

History: 1979 c. 323; 1985 a. 340; 1995 a. 10.

3

(END)



STEPHEN R. MILLER
CHIEF

State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET
5TH FLOOR
MADISON, WI 53701-2037

LEGAL SECTION: (608) 266-3561
LEGAL FAX: (608) 264-6948

January 15, 2001

MEMORANDUM

To: Senator George

From: Robert P. Nelson, Senior Legislative Attorney

Re: LRB-1800 Repeal noneconomic damage recover cap in medical malpractice cases

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

____ JACKET FOR ASSEMBLY ✓ JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 267-7511 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.